

Pension Benefit Guaranty Corporation

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- (1) The name of the plan;
- (2) The name, address and telephone number of the plan sponsor and of the plan sponsor's duly authorized representative, if any;
- (3) The name, address, and telephone number of the person that will administer the plan after the date of termination, if other than the plan sponsor;
- (4) A copy of the plan's most recent Form 5500 (Annual Report Form), including schedules; and
- (5) The date of termination of the plan.

(b) *Information to be contained in a notice involving a mass withdrawal.* In addition to the information contained in paragraph (a) and except as provided in paragraph (d), the following information shall be contained in a Notice filed by a plan that has terminated by mass withdrawal:

- (1) A copy of the plan document in effect 5 years prior to the date of termination and copies of any amendments adopted after that date.
- (2) A copy (or copies) of the trust agreement (or agreements), if any, authorizing the plan sponsor to control and manage the operation and administration of the plan.
- (3) A copy of the most recent actuarial statement and opinion (if any) relating to the plan.
- (4) A statement of any material change in the assets or liabilities of the plan occurring after either the date of the actuarial statement referred to in item (5) or the date of the plan's Form 5500 submitted as part of the Notice.
- (5) Complete copies of any letters of determination issued by the IRS relating to the establishment of the plan, any letters of determination relating to the disqualification of the plan and any subsequent requalification, and any letters of determination relating to the termination of the plan.
- (6) A statement whether the plan assets will be sufficient to pay all benefits in pay status during the 12-month period following the date of termination.
- (7) If plan assets on hand are sufficient to satisfy all nonforfeitable benefits under the plan, and if the plan sponsor intends to distribute such assets, a brief description of the proposed method of distributing the plan assets.

- (8) If plan assets on hand are not sufficient to satisfy all nonforfeitable benefits under the plan, the name and address of any employer who contributed to the plan within 3 plan years prior to the date of termination.

(c) *Certification.* As part of the Notice, the plan sponsor or duly authorized representatives shall certify that all information and documents submitted pursuant to this section are true and correct to the best of the plan sponsor's or representative's knowledge and belief.

(d) *Avoiding duplication.* Information described in paragraphs (a) and (b) of this section need not be supplied if it duplicates information contained in Form 5500, or a schedule thereof, that a plan submits as part of the Notice.

(e) *Additional information.* In addition to the information described in paragraphs (a) and (b) of this section, the PBGC may require the submission of any other information which the PBGC determines is necessary for review of a Notice of Termination.

Subpart C—Plan Sponsor Duties

§ 4041A.21 General rule.

The plan sponsor of a multiemployer plan that terminates by mass withdrawal shall continue to administer the plan in accordance with applicable statutory provisions, regulations, and plan provisions until a trustee is appointed under section 4042 of ERISA or until plan assets are distributed in accordance with subpart D of this part. In addition, the plan sponsor shall be responsible for the specific duties described in this subpart.

§ 4041A.22 Payment of benefits.

- (a) Except as provided in paragraph (b), the plan sponsor shall pay any benefit attributable to employer contributions, other than a death benefit, only in the form of an annuity.
- (b) The plan sponsor may pay a benefit in a form other than an annuity if—
 - (1) The plan distributes plan assets in accordance with subpart D of this part;
 - (2) The PBGC approves the payment of the benefit in an alternative form pursuant to § 4041A.27; or

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(3) The value of the entire nonforfeitable benefit does not exceed \$1,750.

(c) Except to the extent provided in the next sentence, the plan sponsor shall not pay benefits in excess of the amount that is nonforfeitable under the plan as of the date of termination, unless authorized to do so by the PBGC pursuant to § 4041A.27. Subject to the restriction stated in paragraph (d) of this section, however, the plan sponsor may pay a qualified preretirement survivor annuity with respect to a participant who died after the date of termination.

(d) The payment of benefits subject to reduction shall be discontinued to the extent provided in § 4281.31 if the plan sponsor determines, in accordance with § 4041A.24, that the plan's assets are insufficient to provide all nonforfeitable benefits.

(e) The plan sponsor shall, to the extent provided in § 4281.41, suspend the payment of nonguaranteed benefits if the plan sponsor determines, in accordance with § 4041A.25, that the plan is insolvent.

(f) The plan sponsor shall, to the extent required by § 4281.42, make retroactive payments of suspended benefits if it determines under that section that the level of the plan's available resources requires such payments.

§ 4041A.23 Imposition and collection of withdrawal liability.

Until plan assets are distributed in accordance with subpart D of this part, or until the end of the plan year as of which the PBGC determines that plan assets (exclusive of claims for withdrawal liability) are sufficient to satisfy all nonforfeitable benefits under the plan, the plan sponsor shall be responsible for determining, imposing and collecting withdrawal liability (including the liability arising as a result of the mass withdrawal), in accordance with part 4219, subpart C, of this chapter and sections 4201 through 4225 of ERISA.

§ 4041A.24 Annual plan valuations and monitoring.

(a) *Annual valuation.* Not later than 150 days after the end of the plan year, the plan sponsor shall determine or cause to be determined in writing the

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value of nonforfeitable benefits under the plan and the value of the plan's assets, in accordance with part 4281, subpart B. This valuation shall be done as of the end of the plan year in which the plan terminates and each plan year thereafter (exclusive of a plan year for which the plan receives financial assistance from the PBGC under section 4261 of ERISA) up to but not including the plan year in which the plan is closed out in accordance with subpart D of this part.

(b) *Plan monitoring.* Upon receipt of the annual valuation described in paragraph (a) of this section, the plan sponsor shall determine whether the value of nonforfeitable benefits exceeds the value of the plan's assets, including claims for withdrawal liability owed to the plan. When benefits do exceed assets, the plan sponsor shall—

(1) If the plan provides benefits subject to reduction, amend the plan to reduce those benefits in accordance with the procedures in part 4281, subpart C, of this chapter to the extent necessary to ensure that the plan's assets are sufficient to discharge when due all of the plan's obligations with respect to nonforfeitable benefits; or

(2) If the plan provides no benefits subject to reduction, make periodic determinations of plan solvency in accordance with § 4041A.25.

(c) *Notices of benefit reductions.* The plan sponsor of a plan that has been amended to reduce benefits shall provide participants and beneficiaries and the PBGC notice of the benefit reduction in accordance with § 4281.32.

§ 4041A.25 Periodic determinations of plan solvency.

(a) *Annual insolvency determination.* The plan sponsor of a plan that has been amended to eliminate all benefits that are subject to reduction under section 4281(c) of ERISA shall determine in writing whether the plan is expected to be insolvent for the first plan year beginning after the effective date of the amendment and for each plan year thereafter. In the event that a plan adopts more than one amendment reducing benefits under section 4281(c) of ERISA, the initial determination shall be made for the first plan year beginning after the effective date of the